

Application No.: 10/817,562

Docket No.: 64671-0523

**REMARKS**

This amendment is intended to be fully responsive to the Advisory Action dated September 19, 2005 and the Office Action having a mailing date of June 15, 2005 wherein 1, 3-13 and 15-33 are rejected. In consequence thereof, claims 1, 13, 22, 23, 24 and 30 have been amended and claims 2, 3, 14 and 15 have been canceled. Applicants submit that no new matter has been added by this amendment and that support for the amendment may be found throughout the specification and drawings.

**35 U.S.C. § 102**

Claims 1, 3-13 and 15-33 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Redford*, U.S. Patent No. 5,031,982. Applicants respectfully traverse this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131.

Amended claim 1 recites, "A payout tube for a storage container, the payout tube comprising: an elongated conduit with a flexible portion being placed in an interior of the container and a remaining portion being exterior to the container." Amended independent claims 13, 22, 23, 24 and 30 are apparatus and method claims that recite, among other things, limitations similar to the foregoing limitations recited in claim 1.

*Redford* discloses embodiments of a flexible payout duct constructed of a material having a resilient spring-like characteristic that is helically wound to form a hollow tube guide for an optical fiber dispensed from a wound stack disposed in a dispenser. One end of the duct is interconnected with the dispenser for receiving the optical fiber and dispensing along the tube to exit from deep duct opposite end. (See Abstract and column 3, lines 23-26.) There is no disclosure or teaching in *Redford* with regard to a payout tube comprising an elongated conduit with a flexible portion being placed in an interior of the container and a remaining portion being exterior to the container. Contrarily, *Redford* only discloses and teaches that the flexible portion of the payout tube is interconnected with and disposed external to the dispenser. (See FIGS. 5-7) Although the difference between the prior art and present application may be slight, it is

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erroneous to require the patentee to show a "remarkable degree of difference," because this minor difference may have been the key to success. Jones v. Hardy, 727 F.2d 1524 (Fed. Cir. 1984). *Redford* does not provide any disclosure or suggestion of a payout tube having a flexible portion disposed within the interior of the dispenser. Accordingly, for at least these reasons, independent claims 1, 13, 22, 23, 24 and 30 embody patentable subject matter and it is respectfully requested that these claims, as well as their respective dependent claims, be passed to issue.

### CONCLUSION

For at least the above reasons, this application is believed to be in condition for allowance. Accordingly, it is respectfully requested that this application be passed to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 64671-0523 from which the undersigned is authorized to draw.

Dated: October 13, 2005

Respectfully submitted,

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